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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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WEEK IN REVIEW

HOUSE

The House of Representatives amended and gave third reading to H.3415 which increases from twenty to twenty-four the number of credits required to receive a high school diploma, beginning with the ninth grade class of school year 1997-98 and thereafter. One additional unit is required in mathematics, science, and computer science. For students in a college preparatory track, one additional unit must be earned in foreign language. For students in a track designed to enter the work force, one additional vocational unit must be earned. If a student counts one unit of computer science toward his mathematics requirement, one additional unit of computer science must be earned. The bill eliminates a provision that students who earn one unit in science and six or more units in a specific occupational service area will meet the science requirements for a diploma. Also eliminated is a provision that vocational programs operating on a 3-2-1 structure may count prevocational education as one of the six required units. For the purpose of calculating program membership, a high school pupil shall maintain membership in a minimum of 250 minutes of daily instruction or its equivalent for an annual accumulation of 45,000 minutes. The State Board of Education (in order to offer students more instructional time in a particular basic skill) may allow adjustments in the amount of instructional time required in each of the subjects in the State's defined minimum program.

The House gave third reading to H.3586 which establishes a two-tiered system for the state's appellate courts in which the Court of Appeals is charged with the responsibility of deciding most appeals from circuit and family courts. Certain appeals, such as death sentences, challenges to constitutionality, public utility rates, etc. are routed directly to the Supreme Court, as specified in statute. The Supreme Court is positioned to review appeals which involve novel or important issues.

S.480 and S.308 were enrolled for ratification. S.480 provides that South Carolinians who are victims of terrorism inside or outside the United States are eligible for benefits from the Victims' Compensation Fund. S.308 amends current law relating to refusal to renew motor vehicle license and registration for non-payment of property taxes, by providing that the Department of Public Safety shall issue biennial license plates and revalidation decals to motor vehicle owners for the tax year to which personal property taxes and biennial fees have been paid. Current law provides that the Department of Public Safety issue these plates and decals to the county treasurer or the county tax collector, who then issues them to the motor vehicle owner.

The House amended two other Senate bills, S.77 and S.292, and returned them to the Senate. S.77 provides that when a counterclaim is filed with an initial claim in magistrates' court which would, if successful, exceed the magistrates' civil jurisdictional amounts, both the initial and counter claims must be transferred to the court of common pleas. The amendment adopted by the House provides that the limitation on counterclaims does not apply to

counterclaims filed in matters between landlord and tenant and the possession of land. S.292 provides that the State Law Enforcement Division shall collect and maintain concealable weapon application, renewal and replacement fees for the administration of the "Law-Abiding Citizens Self-Defense Act of 1996." The amendment adopted by the House specifies maximum sizes for concealable weapon permits.

The House refused to concur in Senate amendments to S.70 which pertains to the qualifications of retired judges appointed by the Chief Justice to serve in the state's courts, other decisions of retired judges, and the authority of standing committees of the House and Senate to issue subpoenas and subpoenas *duces tecum*. A conference committee was appointed to reconcile the differences of the two houses.

The House rejected H.3310 which exempts certain Department of Transportation employees from the State Employment Grievance Procedure.

The House amended and gave third reading to H.3421 which provides that it is a misdemeanor to knowingly make a false report of child abuse or neglect, punishable with a five thousand dollar fine, imprisonment for up to ninety days, or both. The House also amended and gave third reading to H.3603 which broadens the category of individuals who may be held responsible for child endangerment/abandonment to include individuals who do not have legal custody of a child, but do have recurring access. The expansion aims to include live-in boyfriends/girlfriends. The bill also makes it unlawful to place a child in a situation that would likely lead to abandonment.

The House amended and gave third reading to H.3291 which makes it a misdemeanor to disseminate, sell, or distribute indecent material to minors or to display indecent material in areas likely to be frequented by minors. Offenders are tried in magistrate's court with a first offense carrying a prison term of not more than thirty days and/or a fine of not more than five hundred dollars; a second or subsequent offense carries a prison term of not more than three years and/or a fine of not more than three thousand dollars. A corporation is subject to a fine of not more than fifty thousand dollars. Additionally, maximum penalties are increased for felonies of disseminating obscene materials to minors. The bill's provisions do not apply to audiovisual works, sound recordings, newspapers, or bound literary works. The legislation primarily addresses concerns over certain tee shirts and other items on display and sale in businesses along the coast. The House also amended and gave third reading to H.3449 which provides that an individual is guilty of a misdemeanor who views, photographs, films, or videotapes an unconsenting person in a state of undress in any setting where that person might have a reasonable expectation of privacy. The bill covers such settings as dressing rooms, locker rooms, restrooms, and tanning booths. A violator is guilty of a misdemeanor and is subject to a fine of up to five hundred dollars and/or a prison term of up to three years. Surveillance conducted by law enforcement officers, private investigators, and corrections officials is exempted.

The House amended and gave third reading to H.3585 which provides that the South Carolina Tort Claims Act is the exclusive remedy for any tort committed by a government employee acting within the scope of his official duties. The provision is to be liberally construed in favor of limited liability with ambiguity to be resolved in the favor of the government.

The House amended and gave third reading to H.3403 which enhances protection of trade secrets during litigations by requiring litigants to demonstrate their need for release of trade secrets in order to obtain release of that information. The bill also creates criminal penalties for the misappropriation of trade secrets and codifies the common law distinction between a trade secret agreement and a covenant not to compete.

The House gave third reading to several other measures. H.3193 provides that the theft of a firearm is grand larceny punishable by a prison sentence of up to one year or a fine the amount of which is left to the court's discretion. H.3594, as amended, provides that a school district's annual audit report to the State Department of Education is due by December first following the close of the fiscal year. H.3756, as amended, requires black sea bass to be processed, marketed, and sold with the head and tail intact. The amendment adopted by the full House provides that it is unlawful to take, possess, or offer to sell a black sea bass of less than ten inches in total length. H.3871 exempts property owned by a county fair association from ad valorem taxation. H.3137, as amended, conforms the Board of Speech Pathologists and Audiologists to the uniform organizational and administrative framework for professional and occupational boards.

SENATE

The Senate gave third reading and sent to the House S.47, which enacts the *Drug-Induced Crime Prevention and Punishment Act*. This bill reschedules flunitrazepam, also known as Rohypnol or "the date rape drug," as a Schedule III controlled substance, and creates and establishes penalties for the offense of distributing a controlled substance to an individual with the intent to commit a crime against that individual. The bill also amends current law to add a provision that a person is guilty of criminal sexual assault in the first degree if the actor engages in sexual battery with the victim and if the actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance.

Senators Moore, Passailaigue, and Giese were appointed to a conference committee for S.70, which includes provisions relating to review for continued service of judges or justices by the Judicial Merit Selection Commission and appointment eligibility for retired judges or justices. House conferees are Representatives Harrison, Delleney, and Doug Smith.

The Senate also amended, gave third reading, and sent to the House H.3139, which requires the Department of Social Services to expedite permanent placement of children where parental rights have been terminated. Amendments to the bill include a provision relating to the placement plan for the child which adds that the plan shall include a specific finding as to the minimum number and frequency of contacts a caseworker with the department must have with the child while in foster care, and a provision that for a child placed in foster care in this state, the caseworker must meet with the child, at a minimum, one a month, but based upon the particular needs and circumstances of the individual child, more frequent contacts may be ordered by the court. The bill was also amended by the Senate to provide that the provisions of the plan must be incorporated as part of any court order issued pursuant to the provisions of this section of the law. The Senate also added new sections to the bill which place additional

requirements on the Department of Social Services to facilitate the protection and nurturing of children in foster care, and which add certain crimes to the offenses which, upon a guilty plea or a conviction, prohibit a violator from having a foster child placed in their care.

COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources and Environmental Affairs Committee gave a favorable recommendation to S.360. The bill establishes the Drinking Water Revolving Loan Fund, requires the State to make a biennial report to the E.P.A. concerning the Drinking Water Revolving Loan Fund, brings the State's laws into compliance with the federal Safe Drinking Water Act, and adds additional powers to the S.C. Water Revolving Fund Authority.

The full committee also approved H.3623, a bill amending the Solid Waste Policy and Management Act by distinguishing between "collection", "disposal", "processing", and recycling" related to facilities managing waste tires. Another bill concerning the Solid Waste Policy Management Act, H.3606, received full committee approval. Among this bill's provisions are changes in certain definitions contained in the Act and changes regarding the duties of the Office of Solid Waste Reduction and Recycling. H.3619, a bill which makes it unlawful to hunt on Lake Wateree for migratory waterfowl within 200 yards of a dwelling without the written permission of the owner or occupant, also received committee approval.

The full committee also passed out H.3771, relating to the purposes of the Superb Account and the Superb Financial Responsibility Fund, and H.3647, which provides that on the Edisto, Big Pee Dee, Little Pee Dee, Lumber, and Waccamaw Rivers, live nongame fish may be used with single-barbed set hooks that have a shank-to-point gap of 1-3/16 (one and three-sixteenths) inches or greater. Finally, the committee passed out H.3807, which revises the open season for taking antlered deer in Game Zones 1, 2, and 4 and provides that the Department of Natural Resources has the authority to establish the methods for hunting and taking of deer and to set restrictions on hunting and taking deer.

EDUCATION AND PUBLIC WORKS

The full committee gave a favorable report to S.416, which revises the current process for evaluation of and training for school principals, and gave a favorable report with amendments to H.3652, which requires that private school buses must conform to state laws and regulations with respect to painting, lettering on the front and rear of the bus, use of stop arm and warning lights, maximum speeds, and stopping at railroad crossings. Committee amendments to this bill include revisions to various sections of current law to conform those sections with the provisions in the bill and an additional safety requirement concerning transportation of more than fifteen passengers by a public or private school.

JUDICIARY

The Judiciary Committee gave a favorable report to H.3628 which requires a court to order that the name and other identifying information of a defendant who is convicted of or pleads guilty or *nolo contendere* to offenses which involve sexual or physical abuse of a child be entered into the Central Registry of Child Abuse and Neglect maintained by the Department of Social Services. At any time following a report of child abuse or neglect, DSS is authorized to petition a family court for an order directing that a person named as perpetrator be entered into the Central Registry. DSS must seek such a court order when it finds that there is a preponderance of evidence that a perpetrator committed sexual abuse. Information on less clear-cut cases where there is a preponderance of evidence that a child was abused and some evidence that the subject of the report was the perpetrator may be retained by DSS outside of the Central Registry as a Category II unfounded report. The committee gave a report of favorable with amendment to H.3546 which provides for situations in which the Department of Social Services and law enforcement may extend the period for keeping a child in emergency protective custody beyond the twenty-four hours currently allotted. As amended, the bill eliminates emergency physical custody and afford DSS and law enforcement up to twenty-four additional hours to perform a background check on the relative with whom it is proposed the child be placed. Physical custody may be extended for up to five days if the relative with whom DSS plans to place the child needs time to make travel arrangements (both the relative in question and the parent of the child must give consent for this extension). With regard to the present requirement that DSS contact the officer who took a child into protective custody before returning the child to the home, the bill establishes certain alternative means of communication between DSS and law enforcement. The committee gave a report of favorable with amendment to H.3770 which authorizes the Department of Social Services to establish, in one region of the state, a child protective services pilot program which allows the Department to divert less serious child abuse and neglect cases to an assessment track rather than following normal protocol. An amendment provides that the region may include up to three counties. The committee reported favorably on H.3677 which revises the South Carolina Uniform Securities Act so as to bring the state into conformity with the National Securities Market Improvement Act of 1996 and provide for certain other changes. The committee gave a favorable report to H.3408 which increases the pretrial intervention application fee from fifty dollars to one hundred dollars. Aggregate fees for pretrial intervention application and participation are raised from three hundred dollars to three hundred fifty dollars. Also receiving a favorable report was S.226 which pertains to first offenses (with certain exceptions) in magistrate's or municipal court and allows an individual to have his criminal record expunged even if the conviction occurred prior to June 1, 1992, the effective date of the pertinent code section. The committee gave a report of favorable with amendment to H.3383 which allows reasonable attorney fees to be recovered in a contested administrative proceeding where the state or political subdivision is not the prevailing party. The committee gave a favorable report to concurrent resolution H.3744 which establishes a study committee for the purpose of recommending legislation concerning drug impaired infants and the treatment methods, commitment procedures, and prosecution of the mothers of such infants. The committee gave a report of favorable with amendment to H.3786 which authorizes a judge or magistrate to carry a concealable weapon anywhere within the state upon successful completion of a State Law Enforcement Division firearms training course. An amendment lists the judicial positions to which the legislation applies and includes retired judges and magistrates.

The committee recommitted to the General Law Subcommittee H.3369 which provides that an individual under the age of twenty-one who purchases or possesses alcohol as an undercover agent for state or local law enforcement must not be charged with the violation.

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee reported favorably on H.3764 which makes the following revisions in the laws governing Certified Public Accountants: (1) allows CPAs to accept commissions, rather than hourly fees, for certain services; (2) allows CPAs to provide services on a contingent basis; (3) eliminates the four hundred hour auditing requirement for licensure; (4) eliminates the requirement that a specified amount of the continuing education hours required of CPAs be devoted to auditing or accounting subjects; and (5) amends the form of practice for CPA partnerships or entities so as to conform with national standards for CPAs. The committee gave a report of favorable with amendment to H.3279, the "Patient Access to Optometric Primary Eye Care Act." The committee amendment to the bill prohibits health insurers who provide vision care benefits (with certain exceptions) from discriminating against either optometrists or ophthalmologists, as a class, with respect to the terms, conditions, privileges and opportunity for participation, or compensation for the same eye care services. Such insurers may not prohibit a participating optometrist from performing those medical services within his legal scope of practice which are in accord with the benefit plan. The bill establishes a procedure for those aggrieved by violations. The bill takes effect 180 days after the signature by the Governor, provided, however, that existing contracts must comply with the bill's requirements at their next renewal date. The committee also reported favorably on H.3328 which sets the salary for members of organized volunteer hazardous materials-spill response teams at thirty-seven and one-half percent of the average weekly wage in this state for the preceding year.

The committee recommitted to the Business and Commerce Subcommittee H.3602 which alters the way in which the average weekly wage of volunteer firemen is calculated for the purpose of determining workers' compensation benefits.

WAYS AND MEANS

The full Ways and Means Committee considered numerous bills. The following is a listing of the bills considered, a brief summary of each bill, and a brief summary of any amendments reported out by the committee:

Favorable Report/No Amendments:

H.3595 - amends current law concerning joint municipal water systems and sources of revenue available to them.

H.3669 - broadens the scope of law authorizing the issuance of revenue bonds of Clemson University, relating to the purpose of bonds issued for, among other things, acquiring, constructing, renovating, and equipping athletic facilities at the University.

H.3271 - provides that when a sales and use tax or tolls are imposed to finance transportation projects within a county, the requirement that the projects must be connected and form a single transportation system is deleted.

H.3550 - allows the examination of records, returns, and reports held by the Department of Revenue (the Department) by persons retained on an independent contract basis by the Department to collect delinquent taxes.

H.3554 - clarifies current law concerning exemptions from sales tax on tangible personal property purchased pursuant to a contract with the federal government.

H.3557 - eliminates the SC Accommodations Tax Oversight Committee and devolves its oversight function on the SC Department of Revenue.

H.3802 - allows the disclosure of specific information to a US Senator from South Carolina, a US Representative from South Carolina, a South Carolina Constitutional Officer, or a member of the SC General Assembly in connection with a taxpayer's written inquiry for assistance to the elected official, who has then referred the taxpayer to the South Carolina Department of Revenue for assistance.

S.135 - provides that property in which the occupant has an interest pursuant to an installment contract for sale with the US Department of Veterans Affairs is eligible for the assessment ratio currently provided to certain legal residences pursuant to SC Code of Laws, Section 12-43-220(c), and is eligible for general *ad valorem* property tax exemptions, the homestead exemption to taxpayers 65 or over or those totally and permanently disabled or legally blind, and the general homestead exemption provided under current law, so long as the additional requirements for these exemptions, other than the ownership requirements, are also met.

H.3298 - deletes the multiple lot discount provision allowed for purposes of property tax valuation when undeveloped acreage is surveyed into subdivision lots, and provides that the market value for property tax purposes of the lots and residences constructed thereon shall continue to be their value as undeveloped acreage until the lot is sold or the residence is certified for occupancy, whichever occurs first.

H.3332 - provides that a boat on which the interest portion of any indebtedness thereon would be tax deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence is also deemed to be a primary or secondary residence for purposes of *ad valorem* taxation in this State and is considered real rather than personal property for these purposes. Further provides that maximum *ad valorem* taxation on such a boat for any year is \$1,500.

H.3468 - provides a property tax exemption for the dwelling home and a lot which is owned in fee, or for life, or jointly with a spouse by a South Carolina resident who is a recipient of the Medal of Honor or who was a prisoner of war in World War I, World War II, the Korean Conflict, or the Vietnam Conflict.

H.3553 - provides that when a trustee holds legal title to a dwelling that is the legal residence of a beneficiary 65 years of age or older, or totally and permanently disabled, or blind, and the beneficiary uses the dwelling, the dwelling may receive a homestead exemption if the trustee

applies in person or by mail for the exemption, and the application is effective for as long as the property meets eligibility requirements.

H.3556 - amends current law relating to time limits for assessment of taxes and fees by deleting references to determination and assessment of fees due under laws administered by the Department of Revenue.

H.3762 - provides that for purposes of equalization and assessment, a homeowners' association may designate one or any number of its qualifying tracts or parcels as homeowners' association property for purposes of special valuation.

S.188 - provides that if any entity participating in the state health and dental insurance plans is delinquent in remitting proper payments to cover its obligations, the Office of Insurance Services of the State Budget and Control Board shall certify the delinquency to the department or agency of the State holding funds payable to the delinquent entity, and that department or agency shall withhold from those funds an amount sufficient to satisfy the unpaid obligation.

H.3625 - relates to current law concerning corporate income tax credit for construction of or improvement to an infrastructure project; provides definitions and provides that the tax credit may not be claimed before dedication or conveyance of the infrastructure project; provides that if, within ten years of claiming the tax credit, a road that is part of the infrastructure project qualifying for the credit is removed or planned to be removed from the state highway or public road system, the amount of credit allowed for the construction of the road must be added to corporate income tax due from the taxpayer in the first taxable year following the removal of the road from public use.

H.3810 - provides that a parent-teacher organization affiliated with an educational institution is exempt from filing a registration statement with the Attorney General, provided none of its fund-raising activities are carried on by professional solicitors.

H.3528 - provides that the revenue impact statement on bills must be certified by the Board of Economic Advisors.

H.3601 - deletes the Private Job training Committee, an appointed private-sector committee which provides advice on the utilization of short-term adult funding for collaborative skill training utilizing the technical education system and vocational education system.

H.3921 - establishes conditions for undue hardship under which recovery from estates for medical assistance must be waived.

Favorable Report with Amendment(s):

H.3819 - enacts the "Fee in Lieu of Taxes Simplification Act of 1997," the purpose of which is to simplify the method for obtaining the fee in lieu of taxes benefits while maintaining the county council approval process. Amendment allows a county to use money from fee in lieu of taxes received from a project located in a multi-county industrial park for infrastructure at that project, irrespective of whether the project is investing five million dollars. Amendment also requires that, for purposes of fee in lieu of property taxes arrangements and industrial development projects, investors must file a copy of the inducement or lease agreement with

the Department of Revenue and the county auditors and the county assessors for the county or counties in which the project is located within 30 days of the date of execution of the agreement. The amendment provides for a penalty should the payments of a fee agreement become insufficient to completely service the interest and principal of the associated debt obligation. The amendment provides for the fee payment to be distributed in the same manner and proportion as if the property were taxable. The amendment also addresses the fee payment for purposes of bonded indebtedness.

H.3465 - provides a pension of 50% of a state employee's compensation at the time of his death to certain of his survivors when the employee dies a violent death while performing state duties. Amendments include a provision reinserting language concerning nomination of different beneficiaries for refund of accumulated contributions; and the addition of language clarifying that provision of free tuition is for children of certain employees who are killed or become permanently and totally disabled as defined by the State Retirement System while performing their employment duties for the State where the death occurred as a result of a criminal act by another person against the employee, and the criminal act is a felony, or die a violent death while performing the state's duties.

H.3419 - removes the current \$3 million cap on bonds issued by trustees of SC State University and provides that the bonds may be used for acquiring, constructing, reconstructing, renovating, or equipping athletic facilities and for refunding certain previous bonds. Amendment caps the bonds at \$40 million.

H.3548 - relates to the requirement under current law that a non-resident withholding agent, and a resident withholding agent who is not required to deposit and pay federal withholding to the Internal Revenue Service under the provisions of the Internal Revenue Code, must remit certain SC taxes withheld. Deletes the requirement that these agents "make a return" when they remit SC taxes withheld under this chapter. Amended to provide that where essentially the same information required to be submitted by Section 12-8-1540 is required to be submitted to the IRS on magnetic media, the same method must be used for purposes of this section. The original bill stated that the same method "may" be used.

S.343 - provides that property being sold for delinquent taxes may be auctioned at buildings other than the courthouse, and specifies these alternative sites as buildings owned or leased by the county where the property tax records are kept. Amendment provides that property may be sold at the courthouse or "other convenient place within the county," and adds a provision that payment for the property must be by cash, cashier's check, certified check, or money order.

H.3059 - includes seafood processing facilities within the classification of agricultural real property for purposes of classification of property for the property tax. The committee amended the bill to read that "a dockside facility whose primary use is the landing and processing of seafood is considered agricultural real property."

H.3345 - provides an exemption from property taxes for not more than two personal motor vehicles owned or leased by a person whose vision meets the definition of "blindness" as defined for purposes of qualifying for services from the SC Commission for the Blind. Amended to provide the exemption for only one vehicle.

H.3551 - Amends current method of establishing the property tax exemption by calculating the amount based on the school operating millage imposed for tax year 1995 (the method allowed

under current law) or the current school operating millage, whichever is lower. Amended to add that a school district whose operating millage falls below the 1995 school year operating millage may request to receive tax relief based on the 1995 millage if the current operating millage per pupil plus the current debt service millage is equal to or less than the total millage per pupil for 1995, or if the operating millage per pupil for the 1995 tax year reduced by the amount by which the total millage per pupil for all purposes in the current year exceeds the total millage per pupil for the 1995 tax year but not below the actual operating millage per pupil for the current year. The amendment also provides that the Department of Revenue will be responsible for certifying that the above conditions are met based on the latest completed fiscal data of the requesting district, and provides that any funds received by any such school district in excess of its current millage under the foregoing may be used by such district to pay bonded indebtedness.

H.3498 - provides that when spouses both earn annual and sick leave as SC state employees, they may transfer such leave to their spouse subject to the terms and conditions of the state employee leave-transfer program. Amended to require the approval of the agency head of both spouses' employers.

H.3650 - includes numerous conforming provisions to the Family Independence Act of 1995; most of these provisions concern child support, employment, and training. Committee amendments include revision in the time limits for a child support obligor to be served and to respond in various instances pursuant to a notice of financial responsibility, a revision strengthening the provisions concerning applicants seeking employment, and technical amendments.

H.3651 - includes numerous conforming provisions that states must have in effect in order to remain eligible for federal funding under Title IV-D of the Social Security Act. Many of these provisions relate to child support enforcement. Committee amendments include technical changes, as well as changing from \$2500 to \$1000 the threshold amount of unpaid child support which prompts an arrearage lien process against the obligor; an authorization for the Child Support Division to promulgate regulations and rules, if necessary, to implement the provisions of the section; and punitive measures against any individual or entity who prepares or submits certain falsified information.

H.3626 - repeals and rewrites current law relating to funding additional infrastructure improvements with a portion of admissions taxes paid to certain tourism and recreation facilities. The bill breaks the current statute into two separate sections and defines terms that were not defined in the current statute. The bill also provides clear dates by which certain procedures must be completed and provides processes for making application to have a business subject to the statute and also provides procedures for counties and municipalities to apply for grants from the tourism fund. Committee amendments include deleting a duplicative subsection, providing for the boundaries of a designated development area to be determined prior to the date that the certification application is approved, and providing for the council to determine the status of the tourism or recreation facility as an expansion or a new facility.

H.3127 - provides that under the provisions of the 1996-97 Appropriation Act, technical colleges as well as state-supported colleges and universities may offer education fee waivers to no more than 2% of their undergraduate student body during fiscal year 1996-97. The committee amendment strikes reference to a fiscal year because the amendments will be permanent law, not just for one year.

H.3450 - provides that all interest earnings on the County Transportation Fund must be credited to counties in the ratio that the county's annual distribution is of the total of such distributions statewide, and these distributions shall not include counties that administer their own "C" funds. Current law provides that these funds are credited to the State Highway Fund. Committee amendment deleted the word "interest," so as to provide that all earnings on the County Transportation Fund must be credited as above-stated.

BILLS INTRODUCED

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4039 SCENIC RIVERS TRUST FUND Rep. Sharpe

This bill authorizes the use of the Scenic River Trust Fund for educational or planning projects associated with the administration and management of the State's scenic rivers program.

S.277 ILL-TREATMENT OF ANIMALS Sen. Leventis

This bill revises various penalties related to the ill-treatment of animals and provides that a second-offense conviction for ill-treating an animal is a felony, punishable by a fine of up to \$5,000 and/or imprisonment for up to 5 years.

S.278 ANIMAL ABANDONMENT AND MISUSE Sen. Leventis

This bill amends several sections of the code related to animal cruelty and provides for the custody of an animal after the arrest of its custodian.

EDUCATION AND PUBLIC WORKS

S.446 REGIONAL TRANSPORTATION AUTHORITIES Sen. McConnell

This bill, the companion bill to **H.3829**, amends the Regional Transportation Authority Law by changing each reference to "cities" to "municipalities."

JUDICIARY

H.4034 REGULATION OF PUBLIC NUDITY Rep. Wilkins

This bill amends Article 3, Chapter 15, Title 16 so as to specify that the provisions of the article are intended to regulate obscenity, material harmful to minors, child exploitation, and child prostitution, and that the provisions of the article are not intended to be general law regulating nudity or to preclude regulation by counties and municipalities of other aspects commonly associated with nudity in public places, including ~~commercial establishments~~.

S.83 DOMESTIC VIOLENCE Sen. Rose

This bill requires a court awarding custody of a minor a child to give weight to evidence of domestic violence including, but not limited to, evidence of physical or sexual abuse, and

evidence, if appropriate, of which party was the primary aggressor. The bill establishes several special provisions which a court may utilize in awarding visitation privileges to an individual who has committed domestic violence or who has been identified as the primary aggressor in a situation of domestic violence. These provisions include the exchange of a child in a protected setting or visitation in a supervised setting (the aggressor may be required to defray costs for these special conditions or for treatment or counseling necessitated by the abuse). The court may also award visitation that is conditional upon successful completion of a counseling program or abstention from consumption of alcohol or controlled substances during the twenty-four hours preceding visitation. The court may also prohibit overnight visitation, require a bond of an individual who has threatened to unlawfully retain the child, or impose any other conditions considered necessary for the safety of the child, the victim of domestic abuse, or any other household member. The bill also provides for case review every year, rather than every two years, for an individual who committed an offense against his/her spouse and has become eligible for parole after serving one-fourth of his/her prison term by providing credible evidence that he/she was a victim of spousal abuse.

S.89 ORDERS OF PROTECTION Sen. Holland

This bill provides that a court order of protection from domestic abuse must not have a duration of less than six months, with the exceptions provided under current law.

S.357 ELECTIONS Sen. Saleeby

This bill provides that when deadlines for receipt of specified statements, pledges, fees, and petitions of candidates fall upon a Saturday, Sunday, or legal holiday, they shall instead be due on the next day which is not a Saturday, Sunday, or legal holiday. Candidates seeking nomination to the General Assembly, countywide, or less than countywide office must file their intention of candidacy with their county election commission rather than with county executive committee of their respective parties. A procedure is established by which county election commissions, in turn, relay information to county executive committee of parties. Political parties nominating candidates by primary or convention must, prior to certification, verify the qualifications of candidates to the authority legally charged with preparing the ballot. The bill also establishes certain filing fees.

S.378 DIVISION FOR REVIEW OF THE FOSTER CARE OF CHILDREN Sen. Wilson

This bill requires the Division for Review of the Foster Care of Children to submit its recommendations and reports to the Governor as well as the General Assembly. Recommendations must be submitted to the Governor at such times and in a format as the Governor prescribes.

S.397 MULTI-COUNTY INDUSTRIAL PARKS Sen. J. Verne Smith

This bill provides that the consent of a municipality must be obtained prior to the creation of a multi-county industrial park if the proposed park encompasses all or a portion of the municipality.

S.482 RESIDENCE OF ASSISTANT PUBLIC DEFENDERS Sen. Ryberg

This bill provides that an assistant public defender may reside outside of the county or defender corporation area he serves.

S.591 NOTICE FOR NOT SEEKING REELECTION Sen. Waldrep

This bill requires an individual who is serving in an office elected by the General Assembly but who has decided not to seek reelection to the office to provide written notice of that decision

to the joint committee which reviews candidates for that decision. The irrevocable written notice must be received not less than thirty days before the last date for filing for that office. Should that deadline not be met, the joint committee may reopen or extend filing time.

S.624 DEBT INCURRED BY JOINT MUNICIPAL WATER SYSTEMS Sen. Setzler

This bill authorizes a joint municipal water system to issue bonds and notes and undertake projects which incur debt by a majority of at least two-thirds of the governing bodies of the members, rather than the present requirement of approval of the governing body of each member.

H.4042 POINTING A FIREARM AT A LAW ENFORCEMENT OFFICER Rep. Jennings

This bill increases penalties for pointing a loaded or unloaded firearm at an individual when that individual is a law enforcement officer acting in the line of duty. Rather than the fine and/or maximum five year imprisonment provided for other commissions of the felony, violators who threaten a law enforcement officer must be imprisoned for not less than ten years nor more than thirty years. No suspension or probation may be granted for any portion of the sentence, and an offender is not eligible for parole until he has served at least seven years of his sentence.

S.133 INVOLUNTARY ADMISSION TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS Sen. Hayes

This bill adds a solicitor or assistant solicitor to the list of individuals authorized to initiate involuntary admission of a person with mental retardation or a related disability to the Department of Disabilities and Special Needs.

LABOR, COMMERCE AND INDUSTRY

S.124 ACCESS TO DERMATOLOGISTS IN MANAGED HEALTH CARE Sen. McConnell

This bill provides that if a primary care physician makes a referral to a dermatologist, the enrollee in a managed health care plan may see that in-network dermatologist, without further referral, for a minimum of six months or four visits, whichever occurs first, for diagnosis, medical treatment, or surgical procedures for the referral problem or related complications. The dermatologist must send written communication to the primary care physician after each visit. An enrollee with a documented history of malignant melanoma may be referred by his primary care physician to an in-network dermatologist for an annual evaluation and any necessary biopsy or surgery.

S.380 UNAUTHORIZED TRANSACTION OF INSURANCE BUSINESS Sen. McConnell

This bill establishes a procedure by which the Director of the Department of Insurance may issue an emergency cease and desist order against anyone he reasonably believes has engaged in, or is about to engage in, an unauthorized transaction of insurance business. Such emergency orders may be contested in a public hearing before an administrative law judge, who may make an emergency cease and desist order permanent and impose a penalty of up to fifty thousand dollars per violation. If no request for a public hearing is received within ten days of the receipt of the emergency cease and desist order, then upon application of the Director and without a public hearing, the administrative law judge must make the emergency order a permanent cease and desist order. A penalty of up to twenty-five thousand dollars per

violation may be imposed by a circuit court on anyone transacting business in violation of a permanent cease and desist order. The bill also provides that one who wilfully conducts an unauthorized transaction of insurance business is guilty of a felony rather than a misdemeanor.

S.200 PATIENT ACCESS TO OPTOMETRIC PRIMARY EYE CARE ACT Sen. Courtney

This bill prohibits health insurers who provide vision care benefits (with certain exceptions) from discriminating against either optometrists or ophthalmologists, as a class, with respect to the terms, conditions, privileges and opportunity for participation, or compensation for the same eye care services. Such insurers may not prohibit a participating optometrist from performing those medical services within his legal scope of practice which are in accord with the benefit plan. The bill establishes a procedure for those aggrieved by violations. The bill takes effect 180 days after the signature by the Governor, provided, however, that existing contracts must comply with the bill's requirements at their next renewal date.

S.472 OCCUPATIONAL THERAPY Sen. Land

This bill conforms the Board of Occupational Therapy to the uniform organizational and administrative framework established for professional and occupational boards.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

S.484 DHEC'S HEALTH SERVICES REAUTHORIZATION Sen. Leventis

This joint resolution reauthorizes the S.C. Department of Health and Environmental Control's Health Services.

S.489 OPTICIANS Sen. Elliott

This bill conforms the chapter concerning the licensing of opticians to the administrative and organizational framework for professional and occupational licensing boards. The bill also increases the continuing education requirements from three hours to four hours for a licensed optician and increases the continuing education requirements by an additional hour for an optician also licensed to dispense contact lenses.

WAYS AND MEANS

S.329 LEASE PURCHASE/FINANCING AGREEMENTS Sen. Passailaigue

This bill amends current law relating to lease purchase or financing agreements subject to constitutional debt limit. The bill provides a definition for "enterprise charge," which is a fee or tax imposed under certain conditions in connection with an enterprise financing agreement, by one or more governmental entities, the proceeds from which may only be used for limited purposes. The bill also adds to the current definition of "enterprise financing agreement" that this term may also mean a financing agreement entered into to provide an asset for a governmental enterprise for which an enterprise charge has been imposed in an amount expected to be sufficient to pay the amounts due under the financing agreement, or a combination of revenues described in the bill are expected to produce an amount sufficient to pay the amounts due under the financing agreement. The bill also provides that "governmental enterprise" means any activity undertaken by a governmental entity which either derives revenues from or because of an activity on a basis other than the exercise of the power of taxation by that governmental entity or is entitled to be paid or supported from an enterprise

charge. The bill also provides a definition for "refinancing agreement," which is any agreement(s) that would be a financing agreement except that it refinances an asset acquired under the terms of a contract(s) that is not a financing agreement solely by virtue of being dated prior to January 1, 1996, and the sum of all payments to be made under such agreement is less than the sum of the payments under the contract or contracts it refinances.

FOOTNOTE

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (WWW.LPITR.STATE.SC.US) and click on "Quick Find Guide." On the next screen, click on "Legislative Update." This will list all of the *Legislative Updates* by date. Click on the date you need.